

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-1
ADMINISTRATIVE RULES AND REGULATIONS**

560-12-1-.37 Revocations of Certificates of Registration.

(1) Purpose. Pursuant to O.C.G.A. § 48-8-62, the Department may revoke any one or more of the Certificates of Registration held by a Certificate Holder who fails to comply with any provision of sales and use tax law. This regulation governs the process for notice of proposed revocations, revocation hearings, revocations, and reinstatements.

(2) Definitions.

(a) “Certificate of Registration” shall mean the certificate of registration which the Department issues after an application has been received and approved, pursuant to O.C.G.A. § 48-8-59.

(b) “Certificate Holder” shall mean the person named on the Certificate of Registration.

(c) “Person” shall have the meaning set forth in O.C.G.A. § 48-1-2.

(d) “Sales and use tax law” shall mean Article 1 of Chapter 8 of Title 48 of the O.C.G.A. and any Department rule or regulation relating to this article.

(3) Scope. Every person engaging in or conducting business as a seller or dealer in the state must apply to and receive from the Department a Certificate of Registration for each place of business in Georgia, pursuant to O.C.G.A. § 48-8-59. A Certificate of

Registration is subject to revocation for failure to comply with sales and use tax law, at the Department's discretion.

(4) Grounds for Revocation. The following is a non-exhaustive list of grounds for revocation:

- (a)** Failure to file required returns;
- (b)** Filing false or fraudulent returns;
- (c)** Failure to collect or remit the required tax; and

(d) Providing materially false information in the application for a Certificate of Registration or failing to inform the Department of a material change to information provided in such application.

(5) Notice of Hearing. If the Department determines that there are grounds for revocation, it will send a notice of a revocation hearing. This notice will be delivered in person to the Certificate Holder, or in the case of a business entity, an individual designated as a responsible party or otherwise designated to receive service on behalf of the business entity. If personal service is not possible, the notice will be sent via certified mail.

(a) Contents. The notice will specify each grounds for revocation in detail.

(b) Timing. The notice will be delivered at least ten days prior to the scheduled revocation hearing.

(c) Hearing Schedule. The notice will contain a date, time, place for the hearing, and the name of the hearing officer. The notice will also specify what documents and information, if any, the Certificate Holder should bring to the hearing. If the scheduled hearing time is inconvenient, the notice will specify rescheduling options. However, a hearing may be forfeited if it cannot be

rescheduled within 45 days of the notice, at which point the Department may proceed to revoke the Certificate of Registration.

(6) Hearing. A revocation hearing is an informal conference. It is not a hearing as defined in the Georgia Administrative Procedure Act.

(a) Hearing Officer. The revocation hearing will be conducted by a Department employee authorized by the Commissioner to conduct revocation hearings. Hearings will generally be held by a supervisor or manager over the agent handling the Certificate Holder's account. However, the Certificate Holder may request a different hearing officer if good cause is presented along with such request.

(b) Representation. The Certificate Holder may be represented by an attorney, accountant, or other third party at the hearing, but the third party must submit a signed Power of Attorney to act on the taxpayer's behalf or receive information relating to the taxpayer without the taxpayer present.

(c) Burden of Proof. It is the Certificate Holder's burden of proof to show cause as to why the Certificate of Registration should not be revoked.

1. The Certificate Holder should present evidence to remedy or correct each of the grounds for revocation set forth in the revocation notice.

2. The Certificate Holder is required to keep and preserve accurate records of sales, purchases, books of accounts, and other information as required by the Department, pursuant to O.C.G.A. § 48-8-52. Failure to maintain such records does not relieve the Certificate Holder of the burden of proof.

(d) Compliance Agreement. The Certificate Holder may provide sufficient proof of compliance at the hearing to avoid the revocation. Such options may include furnishing all delinquent returns, paying past due taxes, making a down payment towards past due taxes, and/or enrolling in a payment plan for any past due taxes. The hearing officer must be satisfied that any consideration tendered at the hearing is sufficient to ensure future compliance.

(e) Chronically Delinquent Dealer Bond. The hearing officer may require that a chronically delinquent taxpayer must post a bond with the Department in an amount of not less than \$1,000.00 nor more than \$10,000.00, pursuant to O.C.G.A. § 48-8-57.

(f) Default. If the Certificate Holder does not attend the Revocation Hearing, the Department will revoke the Certificate of Registration. Notice of the revocation will be sent to the Certificate Holder in accordance with paragraph (8).

(7) Hearing Determination. The Department may make an oral determination at the hearing, but will also issue a written ruling of the hearing determination by the next business day following the hearing. The order on the revocation is a final ruling of the Commissioner, and a declaratory ruling subject to appeal pursuant to O.C.G.A. § 48-2-59.

(a) Compliance Agreement. If the Certificate Holder provides sufficient security and guarantee of future compliance, the hearing officer may order no action as to the proposed revocation. The Department reserves the right to conduct another hearing in the event of default on any of the terms of compliance. Such hearing will follow the same procedures as the initial hearing.

(b) Conditional Revocation. If the taxpayer provides some security and guarantee of future compliance, the hearing officer may determine a short time period is reasonable for the Certificate Holder

to produce necessary returns, funds, or other documents to avoid revocation. This time period is a provisional certificate period, which allows the Certificate Holder to retain its Certificate of Registration until a specified date by which the Certificate Holder must meet the conditions specified. If the Certificate Holder fails to comply with the conditions by the date specified, the Certificate of Registration will be revoked effective the end of the provisional certificate period. A provisional certificate period does not preclude the Department from taking any enforcement actions to collect unpaid tax liability during the conditional revocation period.

1. Any reasonable modification or further extension may be granted at the discretion of the hearing officer, but such modifications will be memorialized in a modified order.

(c) Revocation. If the Certificate Holder does not show sufficient cause to avoid revocation, the hearing officer will issue an order revoking the Certificate of Registration, effective immediately.

(8) Notice of Revocation. If the revocation hearing determination is to revoke a Certificate of Registration, the Department will issue a notice of revocation stating the name of the Certificate Holder, the sales tax account number, the Certificate holder's place of business address, and the effective date of the revocation.

(a) Notice. This notice will be delivered in person to the Certificate of Registration holder, or in the case of a business entity, an individual designated as a responsible party or otherwise designated to receive service on behalf of the entity. If personal service is not possible, the notice will be sent via certified mail.

(b) Effect. Once a Certificate of Registration has been revoked, the Certificate Holder is no longer authorized to collect or remit

sales and use tax on behalf of the state. The Department will close the sales tax account number.

(c) Surrender of Certificate. Upon receipt of the notice of revocation, the Certificate Holder must return the Certificate of Registration to the Department.

(d) Operating without a Certificate. It is unlawful for a person or entity to operate with a revoked sales tax certificate. Each officer of a corporation who engages in business with a revoked sales tax certificate shall be guilty of a misdemeanor, pursuant to O.C.G.A. § 48-8-60.

(e) Public Notice of Revocation. The Department may post notice of the revoked Certificate of Registration at the Certificate Holder's place of business, in a conspicuous place. The Department may also maintain and post on its website a list of revoked Certificates of Registration.

(f) Re-application. If the Certificate Holder of a revoked Certificate of Registration attempts to apply for a new Certificate of Registration by using a different name or officer to operate the same business, this constitutes bad faith and may be fraud, pursuant to O.C.G.A. § 48-1-6. Circumvention of a previous determination of revocation is grounds for revocation of the Certificate of Registration.

(9) Reinstatement of a Revoked Certificate of Registration. A revoked certificate may be subject to reinstatement if the Department is satisfied that the grounds for revocation have been sufficiently addressed and the Department has assurances of the Certificate Holder's future compliance.

(a) Application. The Certificate Holder must submit an application for reinstatement, along with the reinstatement fee.

(b) Reinstatement Fee. There is a \$1 fee to reinstate a revoked certificate.

Authority: O.C.G.A. §§ 48-1-6, 48-2-12, 48-2-59 48-8-52, 48-8-57, 48-8-59, 48-8-60, 48-8-62.